<center>**REMARKS**</center>

Claim 27 calls for, *inter alia*, a cache, coupled to a receiver, to store content and an advertisement. An interface in the receiver finds a place to insert the advertisement while the content is still stored in the cache. Thus, the cache stores both the advertisement and the content and the interface finds a place to insert the advertisement in the content.

Referring to Figure 5 of the Zigmond patent, programming delivery (i.e., content) coming into the video switch 90 is represented by an arrow from left to right in Figure 5. Coming down from the top is the advertising from the advertisement repository. For reasons described more fully hereinafter, the advertisement repository does not and cannot store anything but advertisements.

Cited Zigmond Patent

The advertisements are inserted by the video switch into the programming delivery and then output for display at 58. Control of the switch is undertaken by the switching decision unit 88. Thus, as the programming delivery is streamed to the video switch, the switching decision unit decides when to put the advertisements in and, when the unit decides to put the advertisements in, it withdraws them from the advertisement repository and then somehow inserts them into the ongoing programming delivery.

While the programming delivery is not explained in connection with Figure 5, it is discussed briefly in connection with Figure 4. In Figure 4, the programming source that feeds a video switch is item 66. The item 66 may be, for example, national broadcasters or cable networks, as indicated in column 8, lines 43-51. The video programming feed 52 is described as any suitable program delivery channel such as over-the-air broadcasts, a cable provider, consumer satellite service, telephone lines, the Internet, or any other system. See column 7, lines 16-21. Video is being streamed from the video source to the switch in Figure 4 and there is no reason to believe anything different happens in Figure 5 since nothing different is explained. Thus, there would be no reason to store the programming or content in the advertisement repository 86. That programming is already coming in from the left in Figure 5 and it would be impossible to insert the advertisements if the programming content were coming through the video switch already mixed into the advertisements.

<center>- 4 -</center>

Does Zigmond Teach Storing the Content?

The language in column 15, lines 24-35, cannot be read to teach storing both the content and the advertisement. The advertisement repository only has a cache of advertisements. See column 15, lines 24-25. It is explained further down that the advertising repository "may comprise any computer readable medium capable of storing digitally encoded video programming and later making the encoded programming available for display to a user." This language does not indicate that the advertisement repository also stores the streaming content. The language merely indicates that the repository must have a medium that is capable of storing encoded video programming, not one that stores a streaming content. Since advertisements may be video, Zigmond apparently believed that it was valuable to have the advertisement repository be one that is capable of storing advertisements (like TV advertisements) in the form of digitally encoded video programming.

Nothing elsewhere in Zigmond suggests that the advertising repository store both the advertisement and the content. No figure shows a storage that could store the content. To do so would render the switch 90 ineffective, since the switch no longer could place the advertisements into the streaming content because content and advertisements would have already mixed in the advertisement repository. Moreover, the programming delivery, indicated by the arrow to the left of the video switch 90, would make no sense since there would be no programming delivery. Instead, there would be nothing other than the ad delivery, indicated by an arrow adjacent the ad filter 84.

Thus, ads are delivered to the ad filter 84 in Zigmond, filtered down to the repository, and then are provided to the switch. Programming is provided to the left of the video switch 90 and the mixed media from the switch is then output for display at the display 58. Any other interpretation of the Zigmond patent is untenable.

Zigmond does not teach a cache, coupled to the receiver that stores both the content and the advertisement. Therefore, the shell cannot find a place to insert the advertisement in the cached content before the cached content is streamed out. In other words, nothing of the sort is possible in Zigmond and Zigmond clearly and explicitly teaches away from the claimed arrangement. Zigmond only caches the advertisements.

Still further support for the Applicants' interpretation that the content is streamed, not stored, may be found in the second paragraph of Zigmond's summary and objects of the invention. There, Zigmond explains that a conventional video programming feed is displayed to

a viewer. The advertisements are either stored in the advertisement repository for later display or made available to the home entertainment system at an appropriate time. However, the programming is provided as a video programming feed (not from a stored source). See Zigmond, column 4, lines 16-24. The programming feed is the streaming television signal or the like, as described above.

As still additional evidence that the content is being streamed in Zigmond, it is stated in column 6, line 12, that "for purposes of convenience, the invention is described herein by making primary reference to insertion of advertisements into a video programming stream." Since he is talking about a video programming stream, both in the text and in the figures, where he shows the programming delivery, there is clearly no intent to store the programming or content. Instead, Zigmond only stores the advertisements and, therefore, cannot fall within the claimed language calling for a cache coupled to the receiver to store the content and the advertisement.

Zigmond's streaming of the video and somehow quickly inserting the stored advertisements is, according to the present Applicants, a less desirable approach. Instead, the Applicants believe that both the programming content and the advertisements must be stored. The Applicants' approach is a fundamentally different approach that merits patent protection.

Does Zigmond Teach an Interface to Identify a Place to Insert the Advertisement While the Content is Still Stored in the Cache?

Zigmond does not determine where to place the advertisement within the content while the content is still stored in the cache. Specifically, he never stores the content in a cache. Moreover, he apparently makes the insertion decision in real time as the content is streaming through his system. Therefore, he does not make the decision while the content is still stored in the cache. Instead, Zigmond somehow decides where to place the advertisement while the content is streaming through a switch.

The claimed invention admits of at least two possibilities. One is the advertisement is physically placed into the interruptible content portion while the portion is still stored in the cache. The other possibility is that while the portion is still stored in the cache, a decision of where within the content the advertisement will be placed is made, even though it may not be instituted while the content is still stored in the cache.

For this additional reason, the claims distinguish over Zigmond.

Does Zigmond Disclose an Information
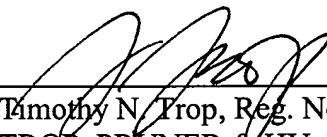**Segment Received with Content?**

Zigmond does not receive an information segment with the content. Also, he does not have anything like an information segment associated with the content. As a result, the entity that sends the content has no direct involvement in determining how the content is interrupted in Zigmond.

Conclusion

Therefore, the amended claims should be allowable.

Respectfully submitted,

Date: September 7, 2005

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